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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 5th day of June 1998

B e f o r e

THE HON'BLE MR.JUSTICE CHANIRASHEKARA IAH

W.P.No:5604/1995

BETWEEN:

A.Elias Ahmed, aged .. years,  
r/a.No.863, Narayana Shastry  
street, Chamaraja Mohalla,  
Mysore.

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... Petitioner;

(By Sri.Udaya Holla )

AND:

1. Asst. Executive Engineer,  
Corporation of the City of  
Mysore, Mysore.
2. Superintending Engineer,  
Corporation of the City of  
Mysore.
3. Accounts Officer, Corporation  
of the City of Mysore,
4. Commissioner of the Corporation  
of the City of Mysore, Mysore.
5. Najeebulla Shariff, aged about  
47 years, r/a. No.10, 2nd Main road,  
Yadavgi, Mysore.
6. R.Chandrashekaraiyah, major,  
PWD contractor, r/a. M D.No.50,  
Kuvempu Hospital Road East,  
Kuvempunagara, Mysore-9.
7. M.S.Vasu, major, PWD  
Contractor, c/o. Mr.R.Chandra-  
shekaraiyah, r/a. -do-

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8. Dastagir Shariff, major,  
PWD Contractor, r/a. M D.No.574,  
North East of N.R.Mohalla,  
Mysore.

9. Srinivas, major, PWD Contractor,  
care of Mr.Najeebulla Shariff, r/a.No  
10, 2nd Main road, Yadavagiri, M  
Mysore.

... Respondents;

( Sri. M. Papanna for R-2 to R-4;  
Sri.T.R.Rangaraju Associates for R-5 and R-6;  
R-1 and R-8 served;  
R-7 and R-9 notice dispensed with)

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Writ Petition is filed under Arts.226 and 227 of  
the Constitution praying to restrain respondents-1 to  
4 from giving any road works of the Corporation of the  
City of Bangalore including laying of roads and depres-  
sion filling, asphaltting of roads etc. by using hot mix plan  
with paver finisher without inviting tenders and at rates  
higher than that prescribed by the PWD.

This petition coming on for orders ~~on~~ this day, the  
Court made the following:-

#### O R D E R

This petition can be disposed of without notice to  
respondents-7 and 9. Accordingly, notices to respondents  
7 and 9 are dispensed with.

2) The petitioner has filed this petition <sup>to</sup> restraining  
respondents-1 to 4 from giving any road works of the  
Corporation of the City of Mysore without notifying tenders

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and at rates higher than that prescribed by the Public Works Department. Under the <sup>Scheme</sup> ~~provisions~~ of the K.M.C. Act, the Corporation is required to enter into any contract as provided under the provisions of the Act. When such being the case, there is no reason to issue any such direction as prayed for in the writ petition. In the event if the Corporation entrusts any work to third party contrary to the provisions of the Act, the said Act shall be challenged either by way of a writ petition or in a civil suit. If the prayer as sought for in the writ petition is granted virtually it would ~~be~~ amounts to preventing the authorities from discharging public duties imposed on them. Therefore, no such direction can be issued as prayed for in the writ petition.

3) Accordingly, writ petition is rejected.

Sd/-  
JUDGE



Hsf.